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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/541,695

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Rudolf Dinger

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GRIFFIN & SZIPL, PC

SUITE PH-1

2300 NINTH STREET, SOUTH

ARLINGTON, VA 22204

EXAMINER

MISKA, VIT W

ART UNIT

PAPER NUMBER

2833

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/541,695 | <b>Applicant(s)</b><br>DINGER, RUDOLF |  |
|                              | <b>Examiner</b><br>Vit W. Miska      | <b>Art Unit</b><br>2833               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1130944 to Dubugnon in view of the prior art disclosed at page 1, lines 15-19 of the specification.
2. The Dubugnon reference discloses a wristwatch telephone comprising control members 20, 21, case 4 in which is mounted an acoustic transducer 1 in communication with output cavity 7 in direct communication with the exterior via two channels 8 (Fig. 1) extending through the case (Fig. 5) and opening on either side of control members 20 and 21 (see Figs. 1-2).
3. It is not clear whether channels 8 are placed on the same side with respect to the 6-12 o'clock axis of the case. However, it would be obvious for one of ordinary skill in the art to place openings/channels 8 at appropriate

Art Unit: 2833

locations along case for optimum acoustic effect for receiving or transmitting sound waves.

4. Regarding a "transmitter" in claim 1, transducer 1 is disclosed as a microphone (acoustic receiver) (col. 1, line 46), and an "earpiece" is suggested for use as a speaker (col. 4, line 56). However, the construction of an acoustic transducer with an acoustic cavity and output channels in a timepiece/telephone is recognized by one of ordinary skill in the art as being applicable to both a microphone (receiver) and speaker (transmitter), as known for example, from the prior art incorporated into this application at page 1, line 18 of the specification. For example, in EP 0899634 col. 5, lines 16-19, the disclosed microphone structure with cavity 14 and output channel 15, is suggested as suitable for use as a speaker. Likewise, EP 0899635 discloses structure of a loudspeaker with cavity 10 and output channel 11 and suggests at col. 4, lines 6-7 use with microphone. Thus, it would be obvious one of ordinary skill in the art to provide an electroacoustic transmitter with an acoustic cavity and output channels in the manner disclosed in Dubugnon for a microphone as an alternative to the earpiece, and as further suggested in the prior art noted above as a conventional speaker design.

5. With respect to claims 8 and 10, water resistance of the transducer is noted at col. 4, line 32 of Dubugnon.

Art Unit: 2833

6. Regarding claim 9, the output channels 8 are oriented along different directions as seen in Fig. 5.

7. With respect to claim 10, Dubugnon discloses an electroacoustic receiver, with an earpiece being suggested for the transmitter (speaker), as noted above. It would be obvious for one of ordinary skill in the art to design an electroacoustic transmitter (microphone) in the manner disclosed for the receiver, as an obvious alternative to an earpiece, and as suggested in the prior art noted at page 1 of applicant's specification and noted in par. 4, above.

8. With respect to claim 12, it would be obvious for one of ordinary skill in the art to use the watch/telephone of Dubugnon, as modified in view of the prior art for claim 10, in a manner most convenient for the user to direct the speaker output closest to the ear and the microphone adjacent the mouth. One of ordinary skill in the art would further be familiar with the acoustic principles necessary to design the output channels and use the watch/telephone of the reference such that the speaker and microphone are located at the appropriate locations. The wearing of a watch on the inside of wrist, as claimed, is noted and taken Official notice of as being conventional. It is further well known to the skilled artisan that placement of the hand over the ear aids in the acoustic resonance of the speaker output from the watch.

Art Unit: 2833

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vit W. Miska whose telephone number is 571-272-2108. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Renee Luebke can be reached on 571-272-2009. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vit W. Miska/  
Primary Examiner, Art Unit 2833

Art Unit: 2833